

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: August 2, 2023)

HASIM MUNIR

v.

STATE OF RHODE ISLAND¹

:
:
:
:
:

C.A. No. PC-2022-6129

DECISION

GIBNEY, P.J. On June 19, 2023, this Court issued a written decision denying Petitioner Hasim Munir’s (Petitioner) claim for compensation, which he had submitted pursuant to the Claims for Wrongful Conviction and Imprisonment Statute, G.L. 1956 chapter 33 of title 12 (Compensation Statute). *See Munir v. State*, No. PC-2022-6129, 2023 WL 4148844 (R.I. Super. June 19, 2023). Petitioner has since filed various requests, including that the Court (1) amend its earlier written decision pursuant to Rule 60(b) in light of “new evidence . . . fraud on the Court . . . void judgment, conviction, and trial sentencing . . . and serious Fourth Amendment false imprisonment, unlawful detainment,” *see* Rule 54(b)(c) Final J. (R. 54 Mot.)² 6; *see also* Rule 60(b) Relief from J. Habeus Corpus Ad Subjiciendum (R. 60 Mot.)³ 2 (describing a “fraud upon the Court” relating to Petitioner’s ongoing allegation that there existed no valid police report or

¹ The Court disregards Petitioner Hasim Munir’s (Petitioner) inclusion of Special Assistant Attorney General (SAAG) Marissa Pizana as a named defendant in the caption of his various recent filings. Petitioner’s original Complaint, his Claim for Wrongful Imprisonment, named the State of Rhode Island as the singular defendant relating to his compensation claim. (Claim for Wrongful Imprisonment (Pet.)) Petitioner has never amended his Complaint to name SAAG Pizana in her official or personal capacity. *See generally* Docket.

² Dated June 14, 2023 and docketed June 27, 2023.

³ Dated June 14, 2023 and docketed June 27, 2023.

arrest warrant in his underlying criminal trial); and (2) enter final judgment in his favor pursuant to Rule 54 of the Superior Court Rules of Civil Procedure. (R. 54 Mot. 6.)⁴ Jurisdiction over these matters is pursuant to Rule 60 of the Superior Court’s Rules of Civil Procedure.⁵

I

Facts and Travel

In its June 19, 2023 decision, this Court noted that when Petitioner filed his compensation claim, he had a concurrent postconviction relief application pending in the Superior Court, PM-2019-10028, which had since been denied and was on appeal to the Rhode Island Supreme

⁴ Petitioner also filed a “Notice to the Court Rule 54 Motion and Rule 60(b) Motion Filed the Court’s Affirmed Delivery of Above[] Motions,” dated June 22, 2023 and docketed June 30, 2023. That filing merely asks this Court to “recognize, address, and respond to the filed Rule 54 Motion and Rule 60(b) Motion as received” and therefore requires no separate treatment or analysis by this Court. In addition, Petitioner filed a Motion to Assign his Rule 54 and Rule 60 Motions for a hearing. *See generally* Docket.

⁵ Separately, Petitioner has also filed a Petition for Writ of Certiorari to the Rhode Island Supreme Court from this Court’s June 19, 2023 Decision. Accompanying the Writ is: (1) a Motion to Proceed *In Forma Pauperis*, Waive Fees and Appoint Counsel; as well as (2) a Motion to Stay Time Limitation[s] pending resolution of Petitioner’s request to appoint counsel. Unlike a notice of appeal pursuant to Rule 3(a) of the Supreme Court’s Rules of Appellate Procedure—which is filed in this Court and over which this Court retains concurrent jurisdiction until the appeal is docketed in the Supreme Court—this Court’s jurisdiction is more limited following a petition for writ of certiorari. Specifically, when seeking the issuance of an extraordinary writ pursuant to Rule 13 of the Supreme Court’s Rules of Appellate Procedure, a claim of indigency and the associated request to waive fees shall be made by petition to the Rhode Island Supreme Court. *See* R.I. Sup. Ct. Art. I, R. 5(b)(2). Petitioner is therefore directed to refile his Petition for Writ of Certiorari and any related appellate motions with the Rhode Island Supreme Court.

To the extent this Court may consider Petitioner’s Motion to Stay, the Court notes that a hearing was neither required nor conducted in this matter because the Court exercised its authority pursuant to § 12-33-2(c) and rendered judgment on the pleadings in the absence of any genuine dispute of material fact. *See Munir v. State*, No. PC-2022-6129, 2023 WL 4148844, at *2 (R.I. Super. June 19, 2023). Consequently, there is no transcript to be requested or transmitted, and Petitioner’s Motion to stay such time limitations is moot. In any event, “[t]here is no specific deadline in the Rhode Island Constitution, the General Laws, or the Supreme Court Rules by which an aggrieved party must file a petition for a common-law writ of certiorari.” 2 Robert B. Kent et al., *Rhode Island Civil and Appellate Procedure* § 13:3 at 131 (2022-2023).

Court, SU-2023-0015-MP. *See Munir*, 2023 WL 4148844, at *2. This Court stated that a Wrongful Imprisonment Compensation claim could not be used to “end run” a still-valid criminal conviction. *Id.* Consequently, the Court granted the State’s Motion to Dismiss Petitioner’s compensation claim. *Id.* Petitioner then initiated the various motions, filings, and communications described above.

II

Standard of Review

To the extent Petitioner now asks this Court to enter final judgment in his favor, notwithstanding its June 19, 2023 decision, the Court will treat Petitioner’s Rule 54 Motion as a Motion for Reconsideration. *See Gray v. Stillman White Co.*, 522 A.2d 737, 741 (R.I. 1987) (“[O]ur courts have often exhibited leniency and provided assistance to those litigants who have chosen to present their own cases”). “Although ... the Superior Court Rules of Civil Procedure say nothing [about] a motion to reconsider,” our Supreme Court has noted that ““a party’s motion to reconsider has been treated by this Court as a motion to vacate a judgment under Rule 60(b).”” *Atmed Treatment Center, Inc. v. Travelers Indemnity Co.*, 285 A.3d 352, 359 (R.I. 2022) (quoting *McLaughlin v. Zoning Board of Review of Town of Tiverton*, 186 A.3d 597, 604 n.9 (R.I. 2018)). “It is well settled that [a] motion to vacate a judgment is left to the sound discretion of the trial justice[.]” *Id.* (quoting *Renewable Resources, Inc. v. Town of Westerly*, 110 A.3d 1166, 1171 (R.I. 2015)).

III

Analysis

First, as a preliminary matter, the Court denies Petitioner’s request to assign these motions for a hearing. The Compensation Statute provides that “[i]f the court determines after

an examination of the claim that the claimant has not alleged sufficient facts to succeed at trial it shall dismiss the claim, either on its own motion or on the state's motion.” (Section 12-33-2(c).) Consequently, no hearing is required when no genuine issue of material fact exists. *Cf. Toole v. State*, 713 A.2d 1264, 1266 (R.I. 1998); *see also Munir*, 2023 WL 4148844, at *2 (“[P]ursuant to Rule 12(c) of the Superior Court Rules of Civil Procedure, a hearing justice may dispos[e] of a case early in the litigation process when the material facts are not in dispute after the pleadings have been closed and only questions of law remain to be decided.”) (quoting *Houle v. Liberty Insurance Corporation*, 271 A.3d 591, 593 (R.I. 2022)).

Next, Petitioner asks this Court to “[g]rant [his Rule] 60(b) Motion to vacate [the] P1-2016-2489A conviction as it is void and unconstitutional in violation of [the] Fourth Amendment.” (R. 60 Mot. 28.) The Court lacks the authority to grant this relief in the context of a compensation claim. *See* § 12-33-2(a)(2) (requiring a claimant to first obtain a pardon, reversal, or vacatur of the underlying conviction before submitting a compensation claim). As this Court has very recently and repeatedly stated, the Compensation Statute does not offer a mechanism for a claimant “to collaterally attack a valid, undisturbed prior judgment of conviction.” *Munir*, 2023 WL 4148844, at *2 (quoting *Terzian v. Magaziner*, No. PM-2021-07092, 2023 WL 1982669, at *8 (R.I. Super. Feb. 7, 2023)).

Finally, Petitioner also asks this Court to reconsider its June 19, 2023 decision with specific emphasis on the undisputed fact that the State dismissed Petitioner's original indictment in P1-2015-3300A. (R. 54 Mot. 3, 5.) The Court declines to do so. It is not enough that the original indictment was dismissed; the State must have done so “[o]n grounds not inconsistent with innocence[.]” (Section 12-33-2(a)(2).) Yet, Petitioner cannot satisfy this requirement because, although the State dismissed the original indictment without prejudice, it subsequently

reindicted Petitioner “for the same conduct, after which [he was] convicted, and the conviction [was] upheld on appeal with specific reference to [his] knowing, intelligent, and voluntary confession to the charged conduct[.]” *Munir*, 2023 WL 4148844, at *2.

Although Petitioner now attempts to dispute the veracity of that confession, claiming in a separate letter to the Court⁶ that he was only attempting to protect his brother and otherwise has an alibi (July 10, 2023 Letter), the Court must not entertain “after-the-fact arguments” included for the first time in a motion for reconsideration. *Atmed Treatment Center, Inc.*, 285 A.3d at 362. In any event, Petitioner remains convicted of and incarcerated for the charged conduct, and, as already stated, any challenge to his underlying conviction is properly asserted in an application for postconviction relief.⁷

IV

Conclusion

For the reasons set forth herein, this Court **DENIES** Petitioner’s Rule 54 and Rule 60 Motions, as well as the related Motion to Assign.

⁶ Petitioner is reminded that although he is a *pro se* litigant, “the courts of this state cannot and will not entirely overlook established rules of procedure, ‘adherence to which is necessary [so] that parties may know their rights, that the real issues in controversy may be presented and determined, and that the business of the courts may be carried on with reasonable dispatch.’” *Gray v. Stillman White Co.*, 522 A.2d 737, 741 (R.I. 1987) (quoting *O’Connor v. Solomon*, 131 A. 736, 736 (Conn. 1926)). Legal arguments and factual claims included in informal correspondence to the Court do not comply with the Court’s rules relating to briefing, filing, and service. *See, e.g.*, Super. R. Civ. P. 7 (“An application to the court for an order shall be by motion which . . . shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.”).

⁷ The Court notes that Petitioner’s concurrent postconviction relief application did in fact include claims that he only confessed to protect his brother and that phone records support his claimed alibi. (Mem. titled “New Evidence & New Witnesses” 3, ¶ 13 (PM-2019-10028).) That application was denied and dismissed on November 22, 2022. (Nov. 22, 2022 Order (Krause, J.).)



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Munir v. State of Rhode Island**

CASE NO: **PC-2022-6129**

COURT: **Providence County Superior Court**

DATE DECISION FILED: **August 2, 2023**

JUSTICE/MAGISTRATE: **Gibney, P.J.**

ATTORNEYS:

For Plaintiff: **Hasim Munir, *pro se***

For Defendant: **Marissa D. Pizana, Esq.**